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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,115	11/28/2001	Pascal Jordil	34119	2582

116 7590 03/19/2003

PEARNE & GORDON LLP
526 SUPERIOR AVENUE EAST
SUITE 1200
CLEVELAND, OH 44114-1484

EXAMINER

GUADALUPE, YARITZA

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 03/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/996,115

Applicant(s)

JORDIL ET AL.

Examiner

Yaritza Guadalupe

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2001 and 25 January 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15 and 16 is/are allowed.
- 6) ☒ Claim(s) 1-3, 12-14, 17-19, 28 and 29 is/are rejected.
- 7) ☒ Claim(s) 4-11 and 20-27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Europe on March 14, 2001. It is noted, however, that applicant has not filed a certified copy of the 01810258.2 application as required by 35 U.S.C. 119(b). It is noted that a copy of foreign priority documents has been received, however, it does not appear to be the certified copy.

Claim Objections

2. Claims 2 and 13 are objected to because of the following informalities:

- a. Claim 13 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 2. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k). : Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. Claims 2, 3, 15, 16, 18 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 2, 3, 15, 16, 18 and 19 refer to a method and apparatus that enables a command to switch when a time interval is greater or shorter than a predetermined value. This limitation is indefinite because the process would not operate in the instance where said predetermined value is zero. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 – 3, 12 - 14, 15, 17 – 19, 29 are rejected under 35 U.S.C. 102 (b) as being anticipated by Glasson (US 5,781,450).

Glasson discloses a coordinate measuring machine comprising a probe tip (22) designed for being brought into contact with the piece (16) to be measured, a displacement mechanism of said probe tip for movement in the three dimensional axes (x, y, z) as shown in Figure 1.

Glasson further discloses a measuring and displaying system (14, 31, 38) that allows the position of said probe tip to be determined and displayed, said measuring and displaying system being able to function according to several distinct modes (See Column 6, lines 26 – 39), wherein at least one of said measure modes can be selected by acting on the position of the probe tip without any other handling operating being necessary. Glasson discloses said measure mode being selected by pressing the probe tip against the piece to be measured during a time interval greater than a predetermined value, since coordinates from the direction of movement of the probe will determine the feature type, which implies that some time interval is present so as to obtain the measurements from / with the probe.

Glasson discloses an apparatus comprising a command program for measuring and displaying in a dimension – measuring column, said program enabling the position of the probe tip of said measuring column to be determined and displayed in computer monitor (31), said program being capable of making said measuring and displaying system function according to several distinct modes, wherein said program enables another of said measure modes to be selected by acting on the position of the probe tip, said program being performed by a computer (14).

With respect to claims 1 – 3, 14 and 15 : The method enabling a command to switch the measure mode to be entered in a dimension – measuring column provided with a probe tip wherein said command to switch the measure mode is entered by only making use of the position of said probe tip (See Column 6, lines 26 – 39), wherein said command to switch the measure mode is entered by pressing the probe tip against a piece to be measured during a time interval greater than a predetermined value, and wherein a measurement of the probing point is effected when the probe tip is pressed against said piece to be measured during a time interval shorter than said predetermined value can be made by the regular operation of the apparatus disclosed Glasson.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 28 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Glasson (US 5,781,450) in view of Tsukamoto et al. (US 5,991,706).

Glasson discloses a coordinate measuring machine as stated in paragraph 3 above.

Glasson does not disclose the loudspeaker as stated in claim 28.

Regarding claim 28 : Tsukamoto et al. discloses a measuring apparatus comprising a control device (30) having an operation panel (8) for selecting a desired operational measuring mode (See Column 6, lines 30 – 41) and also having a loudspeaker / sound generator (14) for signaling. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add a loudspeaker / sound generator as taught by Tsukamoto et al. to the apparatus disclosed by Glasson in order to provide a safety mechanism which produces a loud indication if a change has occurred in the process that will alert the user at long distances.

Allowable Subject Matter

8. Claims 4 – 11, 20 – 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 15 – 16 are allowed.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references are considered of relevance to the present application :

- b. Ogihara et al. (US 6,044,569)
- c. Cresson (US 6,301,796)
- d. Wampler et al. (US 5,898,590)
- e. Ercole et al. (US 5,883,313)
- f. Hama et al. (US 6,357,134)

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe whose telephone number is (703)305 -5676. The examiner can normally be reached on 9:00 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (703) 308-3875. The fax phone numbers for the organization where this application or proceeding is assigned are (703)746-4467 for regular communications and (703)872-9318 for After Final communications.

Art Unit: 2859

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.



Yaritza Guadalupe
Patent Examiner
Art Unit 2859
March 13, 2003

DIEGO F.F. GUTIERREZ
SUPERVISOR PATENT EXAMINER
TECHNOLOGY CENTER 2800